

JOLLEY URG WIRTH WOODBURY & STANDISH
3800 Howard Hughes Parkway, 16th Floor, Las Vegas, Nevada 89169
Telephone: (702) 699-7500 Fax: (702) 699-7555

WILLIAM R. URG
Nevada Bar No. 1195
fedct@juwww.com
JOLLEY URG WIRTH
WOODBURY & STANDISH
3800 Howard Hughes Parkway, Suite 1600
Las Vegas, Nevada 89169
(702) 699-7500 Telephone
(702) 699-7555 Facsimile

ROGER B. COWIE (Admitted *Pro Hac Vice*)
LOCKE LORD BISSELL & LIDDELL, LLP
2200 Ross Avenue, Suite 2200
Dallas, TX 7501
(214) 740-8614 Telephone
(214) 740-8800 Facsimile

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

EDWIN B. CARTON, *et al.*,

Plaintiffs,

vs.

B&B EQUITIES GROUP, LLC, *et al.*,

Defendants.

Case No. 2:11-cv-00746

**JOINT MOTION OF PLAINTIFFS AND
AMERICO TO DISMISS SETTLED
CLAIMS RELATED TO THE DIAZ
POLICY AND TO SEVER THE
DISMISSED CLAIMS**

**JOINT MOTION OF PLAINTIFFS AND AMERICO
TO DISMISS SETTLED CLAIMS RELATED TO THE DIAZ POLICY
AND TO SEVER DISMISSED CLAIMS**

Plaintiffs and defendant Americo Financial Life and Annuity Insurance Company
("Americo") file this joint motion to dismiss settled claims related to the Diaz policy and to sever
the dismissed claims as follows:

I.

Plaintiffs have asserted numerous claims against numerous defendants related to
Plaintiffs' investments in several life insurance policies. One of the policies was issued by
defendant Americo insuring the life of defendant Gloria Diaz Rivera (the "Diaz Policy").

1 II.

2 Americo has filed counterclaims, cross-claims, and third-party claims against several
3 persons who have asserted, or who Americo expects may assert, claims related to the Diaz
4 Policy.

5 III.

6 In response to Americo's claims, cross-defendant Global Equity Preservation, Inc. and
7 third-party defendant Barbara Eberle have executed disclaimers of interest in the Diaz Policy,
8 copies of which are attached hereto collectively as Exhibit 1.

9 IV.

10 Plaintiffs, Americo, and the remaining cross-defendants and third-party defendants who
11 claim an interest in the Diaz Policy have reached a settlement that provides for, among other
12 things, an agreed rescission of the Diaz Policy and a dismissal of the settled claims related to the
13 Diaz Policy.
14

15 V.

16 Pursuant to the terms of the settlement agreement, and based on the disclaimers of
17 interest executed by Barbara Eberle and Global Equity Preservation, Inc., Plaintiffs and Americo
18 request that the Court:
19

- 20 1. Declare that the Diaz Policy is rescinded *ab initio* pursuant to the parties'
21 settlement agreement.
- 22 2. Dismiss with prejudice all claims asserted by Plaintiffs against the following
23 parties, but without prejudice to any unasserted claims that have not been released
24 in the parties' settlement agreement:
- 25 a. Americo
 - 26 b. Gloria Diaz Rivera
 - 27 c. The Gloria Diaz Rivera Irrevocable Life Insurance Trust
 - 28 d. Angelo Diaz Gonzalez

JOLLEY URGAL WIRTH WOODBURY & STANDISH
3800 Howard Hughes Parkway, 16th Floor, Las Vegas, Nevada 89169
Telephone: (702) 699-7500 Fax: (702) 699-7555

3. Dismiss with prejudice all claims asserted by Americo against the following parties, but without prejudice to any unasserted claims that have not been released in the parties' settlement agreement:
 - a. Edwin and Lonnie Carton
 - b. Gloria Diaz Rivera
 - c. The Gloria Diaz Rivera Irrevocable Life Insurance Trust
 - d. Gil A. Diaz, individually and on behalf of the Diaz Target Benefit Pension Plan Trust
 - e. Julio A. Gonzalez, individually and on behalf of the Dr. Julio Gonzalez Medical Office Target Benefit Pension Plan Trust
 - f. Juan Ramon Rivera Cordero
 - g. JRC Group Corp.
 - h. Gloria Diaz, LLC
 - i. Gloria Diaz II, LLC
 - j. Gloria Diaz III, LLC
4. Dismiss without prejudice all claims by Americo against Barbara Eberle and Global Equities Preservation, Inc.
5. Tax all costs of court for the dismissed claims against the parties incurring same.
6. Sever the dismissed claims from the remaining claims in this action so that the dismissal order shall be a final judgment with respect to the dismissed claims.

V.

A proposed order granting the requested relief is being submitted concurrently herewith.

Respectfully submitted:

/s/ Wesley J. Smith
Wesley J. Smith
Nevada Bar No. 000175
CHRISTENSEN JAMES & MARTIN
7440 W. Sahara Avenue
Las Vegas, Nevada 89117
Telephone: (702) 255-1718
Facsimile: (702) 255-0871

ATTORNEYS FOR PLAINTIFFS

JOLLEY URG A WIRTH WOODBURY & STANDISH
3800 Howard Hughes Parkway, 16th Floor, Las Vegas, Nevada 89169
Telephone: (702) 699-7500 Fax: (702) 699-7555

/s/ William R. Urga

William R. Urga

Nevada Bar No. 1195

JOLLEY URG A WIRTH WOODBURY & STANDISH

3800 Howard Hughes Pkwy., #1600

Las Vegas, Nevada 89169

Telephone: (702) 699-7500

Facsimile: (702) 699-7555

ROGER B. COWIE (Admitted *Pro Hac Vice*)

LOCKE LORD BISSELL & LIDDELL LLP

2200 Ross Avenue, Suite 2200

Dallas, Texas 75201

Telephone: (214) 740-8000

Facsimile: (214) 740-8800

**ATTORNEYS FOR AMERICO FINANCIAL
LIFE AND ANNUITY INSURANCE
COMPANY**

CERTIFICATE OF SERVICE

This will hereby certify that I am employed in the County of Clark, State of Nevada, am over the age of 18 years, and not a party to this action. My business address is that of Jolley Urga Wirth Woodbury & Standish, 3800 Howard Hughes Parkway, Suite 1600, Las Vegas, Nevada 89169.

This is to certify that on this day, I electronically filed the **JOINT MOTION OF PLAINTIFFS AND AMERICO TO DISMISS SETTLED CLAIMS RELATED TO THE DIAZ POLICY AND TO SEVER THE DISMISSED CLAIMS** (with proposed agreed order) with the Clerk of Court using the CM/ECF system, which will cause the documents to be electronically served upon the following counsel of record:

Kevin B. Christensen, Esq.

Wesley J. Smith, Esq.

CHRISTENSEN JAMES & MARTIN

7440 W. Sahara Avenue

Las Vegas, Nevada 89117

JOLLEY URGAS WIRTH WOODBURY & STANDISH
3800 Howard Hughes Parkway, 16th Floor, Las Vegas, Nevada 89169
Telephone: (702) 699-7500 Fax: (702) 699-7555

1 Charles H. McCrea, Jr., Esq.
2 LIONEL SAWYER & COLLINS
3 300 S. Fourth Street
4 Longford East, Building 13
5 Las Vegas, Nevada 89101

6 David T. McDowell, Esq.
7 Jessica L. Wilson, Esq.
8 EDISON MCDOWELL & HETHERINGTON, LLP
9 3200 Southwest Freeway
10 Houston, Texas 77027

11 Additionally I served these documents upon the following via First Class Mail:

12 Robert L. Eberle
13 365 W. Macedonia Church Road
14 Oxford, GA 30054

15 Bruce S. Plotnick
16 37 Lohnes Road
17 Framingham, MA 01701

18 Gloria Diaz Rivera
19 Gloria Diaz Rivera Irrevocable Life Insurance Trust
20 Urb Villa Granada
21 #909 Calle Alameda
22 San Juan, PR 00923

23 Estate Planning Solution Network
24 37 Lohnes Road
25 Framingham, MA 01701

26 Angelo Diaz Gonzales
27 PMB 340, Suite 67
28 35 Calle Juan C. Borbon
Guaynabo, PR 00969

Robert L. Koppel
Steve W. Koppel
Pro Financial Group, Inc.
5073 Frontier Lane
Roseville, CA 95747

JOLLEY URGAL WIRTH WOODBURY & STANDISH
3800 Howard Hughes Parkway, 16th Floor, Las Vegas, Nevada 89169
Telephone: (702) 699-7500 Fax: (702) 699-7555

1 B&B Equity Group, LLC
2 Global Equity Preservation, Inc.
3 Eagle Investment Corporation of America
4 Pro Fi Group, Inc.
5 777 Rainbow Blvd., Suite 250
6 Las Vegas, NV 89107

7 Eduardo J. Mayoral Garcia
8 Mayoral Garcia Law Offices, PSC
9 PMB 157
10 P.O. Box 194000
11 San Juan, PR 00919-4000
12 *Attorneys for Angelo Diaz Gonzalez*

13 I certify under penalty of perjury that the foregoing is true and correct, and that this
14 Certificate of Service was executed by me on December 23, 2011, at Las Vegas, Nevada.

15
16
17
18
19
20
21
22
23
24
25
26
27
28
/s/ William R. Urga
William R. Urga